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13 | Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

17 HOLLY GEHL, et al others similarly
18 situated.

19 Plaintiffs.

20 | VS

²¹ BLOOMIN' BRANDS, INC., et al.,

Defendants

Case No. 4:13-cv-05961-KAW

[Judge Kandis A. Westmore]

**JOINT STIPULATION TO ALLOW
FILING OF SECOND AMENDED
COMPLAINT; ~~PROPOSED~~ ORDER**

1 The parties to the above-captioned action, through their attorneys of record,
 2 hereby stipulate and agree as follows:

3 WHEREAS, this action is a putative class action brought by the named
 4 plaintiffs on behalf of themselves and all current and former hourly, non-exempt
 5 employees employed by defendants at an “Outback Steakhouse” Restaurant in
 6 California, at any time during the statutory time period;

7 WHEREAS, as a result of discovery and investigation undertaken since the
 8 First Amended Complaint was filed, Plaintiffs contend that they have identified new
 9 plaintiffs who wish to join this action as named plaintiffs and facts supporting the
 10 assertion of additional claims not previously asserted

11 WHEREAS, plaintiffs therefore desire to amend the operative first amended
 12 complaint to add new named plaintiffs and/or new claims, as set forth in the
 13 proposed Second Amended Complaint attached as Exhibit A;

14 WHEREAS, Plaintiff’s counsel has filed a motion requesting leave to
 15 withdraw as counsel of record for named Plaintiff Shannon Spalding (“Spalding”),
 16 requesting that Spalding be withdrawn as a named Plaintiff, with prejudice to Ms.
 17 Spalding acting as a named Plaintiff and with prejudice to any claims against the
 18 Bloomin’ Defendants, and requesting that named Plaintiff Brittni Zacher (“Zacher”)
 19 be withdrawn as a named Plaintiff;

20 WHEREAS, the hearing on the above-referenced motion related to Spalding
 21 and Zacher has been set for hearing on November 6, 2014;

22 WHEREAS, the Court has issued an Order to Show Cause addressed to
 23 Spalding and Zacher requiring that Spalding show cause by October 31, 2014 why
 24 Plaintiff’s counsel should not be permitted to withdraw as her counsel of record,
 25 requiring Spalding to submit a declaration regarding her desire to remain a named
 26 Plaintiff, and requiring Zacher to submit a declaration confirming that she does not
 27 wish to participate in this action as a named Plaintiff;

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1 WHEREAS, Defendants are agreeable to Plaintiffs amending their complaint
2 upon resolution by the Court of the above-referenced Motion related to Zacher and
3 Spalding;

4 WHEREAS, the parties agree that if the Court orders that Zacher and
5 Spalding should be dismissed as named Plaintiffs with prejudice, the attached
6 Second Amended Complaint shall be deemed filed and served as of the date of such
7 ruling; and

8 WHEREAS, the parties agree that if the Court rules that Spalding and Zacher
9 should not be withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the
10 attached Second Amended Complaint to reflect such ruling and counsel shall
11 promptly meet and confer regarding the preparation of a stipulation for such revised
12 Second Amended Complaint to be filed.

13 THEREFORE, IN LIGHT OF THE FOREGOING, THE PARTIES HEREBY
14 STIPULATE AND AGREE THAT:

15 1. If the Court rules that Zacher and Spalding shall be withdrawn as
16 named Plaintiffs as requested by Plaintiffs' Motion to Withdraw (DKT # 53), the
17 Second Amended Complaint attached as Exhibit A shall be deemed filed and served
18 as of the date that the Court issues such a ruling; and

19 2. If the Court rules that Zacher and/or Spalding should not be
20 withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the attached Second
21 Amended Complaint to reflect such ruling and counsel shall promptly meet and
22 confer regarding the preparation of a stipulation for such revised Second Amended
23 Complaint to be filed.

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1 IT IS SO STIPULATED

2 DATED: October 17, 2014

WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP

7 DATED: October 17, 2014

4 By: /s/ Eric Levinrad
5 ERIC LEVINRAD

6 Attorneys for Plaintiffs

7 LATHROP & GAGE, LLP

13 DATED: October 17, 2014

8 By: /s/ Allison Wallin

9 BETH SCHROEDER

10 LAUREN KATUNICH

11 ALLISON WALLIN (Admitted *Pro Hac Vice*)

12 Attorneys for Defendants T-BIRD RESTAURANT
GROUP, INC. and T-BIRD NEVADA, LLC

13 GIBSON, DUNN & CRUTCHER LLP

14

15 By: /s/ Sara Zenewicz

16 SARAH ZENEWICZ

17 Attorneys for Defendants BLOOMIN' BRANDS,
18 INC.; OSI RESTAUANT PARTNERS, LLC; and
OS RESTAURANT SERVICES, LLC

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ORDER

In light of the stipulation by and between plaintiffs and defendants and for good cause shown, **IT IS HEREBY ORDERED THAT:**

1. If the Court rules that Zacher and Spalding shall be withdrawn as named Plaintiffs, the Second Amended Complaint attached as Exhibit A shall be deemed filed and served as of the date that the Court issues such a ruling; and

2. If the Court rules that Zacher and/or or Spalding should not be withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the attached Second Amended Complaint to reflect such ruling and counsel shall promptly meet and confer regarding the preparation of a stipulation for such revised Second Amended Complaint to be filed.

Dated: 11/7/14

HON. KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE